



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Istvan Simon

Docket No.: 98-370

Serial No. : 09/136,820

Examiner : N.
Ponomarenko

Filed : August 19, 1999

Art Unit : 2834

For : LIQUID POWER MACHINE

900 Chapel Street
Suite 1201
New Haven, CT 06510-2802

*#23/Reg. for
Reconsid.
Hawkins
9/6/01*

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. 1.116

Hon. Commissioner of Patents and Trademarks
United States Patent and Trademark Office
Washington, D.C. 20231

Dear Sir:

In response to U.S. Patent and Trademark Office Action dated August 2, 2001, and in furtherance to the personal interview held on August 14, 2001, Applicant respectfully requests the Examiner reconsider his final rejection for the reasons set forth hereinbelow.

Initially attention is drawn to the Interview Summary Record of August 14, 2001. In the Interview Summary Record, it was reflected that claim 1 was discussed. It is also reflected in the Interview Summary Record that the Examiner stated that claim 1 in its present form was incomprehensible. In this regard it should be noted that the Examiner's final rejection does not reject claim 1

under 35 U.S.C. 112, second paragraph. Accordingly, the final rejection does not find the claim to be indefinite. Thus, it is impossible for the undersigned to now understand why the Examiner would hold the position that the claim is incomprehensible as set forth in the Interview Summary Record. It is submitted that claim 1 is in fact comprehensible and does comply with the formal requirements U.S.C. 112, both first and second paragraphs. In this regard it should be noted that the claim language of independent claim 1 finds antecedent basis on Page 4 of the instant specification in the first paragraph of the detailed description. (See lines 14-18 of Page 4) The drive means is indicated by reference numeral and is shown in partial section in Figure 1, the drive output means is indicated by reference 12, the level drive assembly is indicated by reference numeral 13. The energy input means for providing energy to the drive means comprising a flowing water source is not shown in the drawings; however, clear antecedent basis is set forth in the paragraph bridging Pages 12 and 13 of the instant specification. If the Examiner wishes, a black box flowing water source could be added to the top of Figure 5 for directing flowing water to the upper feed container 43. Thus, it could be clearly

J

seen that the claim is definite. All of the recitations in claim 1 find antecedent basis in the specification. Accordingly, the Examiner's statement that the claim is incomprehensible is without merit.

The Examiner has objected to the specification under 37 C.F.R. 1.71. In this regard it was submitted that the Examiner's position is again in error. The Examiner states that the disclosure fails to provide any structure to support the phrase "upward and downward movement of the cascade assembly is afforded by overfilling of a cascade assembly in relation to the other (with water from a flowing water source...)". It is submitted that the statement is clear. The structure or feature to accomplish the foregoing is in fact the flowing water source. There is nothing non-enabling about the foregoing language. Again, Applicant will amend Figure 5 if the Examiner desires; however, this is not believed necessary.

With regard to the Examiner's rejection of the claims under 35 U.S.C. 101 as being inoperative and lacking utility, this rejection is traversed. The Examiner insists on arguing that the claims of the instant invention are drawn to potential motion machine. This is not the case. The claims, specifically independent claim 1, clearly sets

forth an energy input to the system. Once there is an energy input to the system the liquid power machine functions. Accordingly, it cannot be said that the liquid power machine is a perpetual motion machine. These arguments were presented to the Examiner at the above noted personal interview without success. However, it needs to be said again that claim 1, which is clearly definite for the reasons set forth above, contains an energy input and thus cannot be properly rejected under 35 U.S.C. 101 as being a perpetual motion machine. The Examiner's grounds for rejection are without merit and should be withdrawn.

If the Examiner is to maintain these grounds of rejection, it is respectfully requested that a further oral hearing be conducted with the Examiner's supervisor. The grounds of rejection set forth in the Examiner's final rejection are without merit. Claim 1 is not incomprehensible. Claim 1 does comply with 35 U.S.C. 112, second paragraph. Claim 1 is not drawn to a perpetual motion machine as it clearly sets forth an energy input means. The specification is not non-enabling as the energy input means is clearly disclosed in the paragraph bridging Pages 12 and 13 of the instant specification. Accordingly,

it is believed that the Examiner's final rejection is without merit and should be withdrawn.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

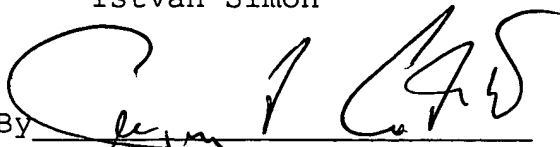
It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231

on August 28, 2001
(Date of Deposit)
Rachel Piscitelli
Name and Reg. No. of Attorney
Rachel Piscitelli
Signature
August 28, 2001
Date of Signature

Respectfully submitted,
Istvan Simon

BY 
Gregory P. LaPointe
Attorney for Applicant
Reg. No. 28,395
Tel: (203) 777-6628
Fax: (203) 865-0297

Date: August 28, 2001